

# **EXHIBIT E**

Christopher Salas, M.D. - July 23, 2019

62

1                   THE WITNESS: You're right, sleep  
2 study. I ordered the bottom bunk -- never mind,  
3 scratch that. So I ordered a bottom bunk, yeah,  
4 yeah. I'm sorry, what was your question?

5 A. I'm sorry it's really hard because it's the  
6 old EMR. I'm just not used to how these notes  
7 look.

8                   MS. DAVIS: Could you read the last  
9 question.

10                  (QUESTION READ)

11 A. Yes.

12 Q. Was it unusual in any way that the plaintiff had  
13 been reporting falling out of bed in association  
14 with his sleep issues?

15                  MR. LATHAM: Objection. You can  
16 answer.

17 A. Sleep apnea and sleep disorder breathing is  
18 not an uncommon diagnosis. It's seldom the case  
19 that somebody wakes up in the middle of the night  
20 and falls out of bed because of it, though. So,  
21 yes, kind of unusual.

22 Q. Was it unusual simply because it was infrequent;  
23 is that what you're saying?

24 A. I don't know that I've had a second patient  
25 that's ever reported that particular symptom

Christopher Salas, M.D. - July 23, 2019

63

1           associated with these other symptoms that are  
2           consistent with sleep disorder breathing. Full  
3           grown adults that have sleep apnea don't typically  
4           fall out of bed. They might wake up in the middle  
5           of the night. They might be a little groggy, but  
6           they don't fall out of the bunk, it's a bit odd.

7 Q.       Did the fact that he reported falling out of bed a  
8           few times contribute to your decision to submit an  
9           order for a bottom bunk?

10 A.       Absolutely. I think my normal practice when  
11          somebody reports symptoms consistent with sleep  
12          apnea would be get the sleep steady first and only  
13          order bottom bunk after the sleep study came back  
14          positive and put him on a CPAP machine.

15 Q.       But because he had reported also having falls, are  
16          you saying that that would have contributed to  
17          requiring a bottom bunk prior to receiving the  
18          sleep apnea machine?

19 A.       Yes.

20 Q.       At this point did you believe that the plaintiff  
21          did in fact have a sleep disorder?

22 A.       He had symptoms that were consistent with it.  
23          So you get the test to rule it in or out if it's  
24          the pattern.

25 Q.       Based on this record as in Exhibit 1 you did in

Christopher Salas, M.D. - July 23, 2019

65

1 A. No.

2 Q. Do you know why there are multiple orders in the  
3 system?

4 MR. SULLIVAN: Objection.

5 MR. LATHAM: Don't guess. If you  
6 know.

7 A. The system doesn't have -- doesn't force you  
8 to only write one, so you can write ten if you  
9 want. So they sometimes will accumulate.

10 Q. So, do you think that these prior existing orders  
11 are just lingering in the system?

12 MR. LATHAM: Objection. You can  
13 answer.

14 A. I'm better now about removing duplicates in  
15 my electronic medical record when I'm sort of what  
16 I call it cleaning up my patients, but when I  
17 first started, there would sometimes be multiple  
18 orders that were essentially duplicates, sometimes  
19 for different reasons, and sometimes not. And  
20 they just -- it's just sort of a feature of the  
21 system, or lack of feature of the system, that  
22 they kind of accumulate that way.

23 Q. But this was a function to get rid of prior  
24 existing orders?

25 A. I don't remember how it worked in the old

Christopher Salas, M.D. - July 23, 2019

66

1 system.

2 Q. So is it your testimony that you, because this was  
3 early on in your experience at Medium, you would  
4 just add a new order, just to be safe?

5 MR. SULLIVAN: Objection.

6 MR. LATHAM: Objection.

7 A. If you look at the order in the computer, the  
8 way it's written, it looks redundant because she  
9 wrote a bottom bunk, falls, dated 6-21-16 for a  
10 year, and then I came along a week later and wrote  
11 the same order for three months, which is a subset  
12 of the year. Which one would you follow? It's  
13 not really clear. Either way, the intent on my  
14 part was to get the bottom bunk approved, and by  
15 writing that second order, I created another piece  
16 of paper which would have went before them to be  
17 assessed again. When I said renew in the note,  
18 what I meant is I was trying to get the  
19 reconsideration of the order because it was denied  
20 before, apparently in the sense that the patient  
21 was telling me, oh, I don't have it. Because he  
22 says he was in a bottom bunk and requests again.  
23 So I'm assuming what I meant by that he isn't in  
24 one now and wants it, which is why I wrote the  
25 order.

Christopher Salas, M.D. - July 23, 2019

67

1           When you're writing it, you don't see the old  
2         ones next to it the way it displays in this, and  
3         at the time I was still getting used to how you  
4         would do these, so I probably -- if I had seen  
5         Marianne's order at the same exact time, maybe I  
6         would have chose a different end date. It's  
7         arbitrary. I picked three months because that's  
8         what I pick. I was probably thinking the sleep  
9         study would be done by then and I'd have an  
10        answer. That's just how that plays out. So you  
11        don't remember exactly why I chose that start  
12        date. You think it might have just been --

13                   MR. LATHAM: Hold on.

14   Q. You don't recall why exactly you chose that stop  
15        date, you just think it might have been for  
16        convenience?

17   A. No. I mean, the stop date, I would have made  
18        that up. It's an arbitrary thing.

19   Q. Do you recall what happened with this order?

20   A. No.

21                   EXHIBIT 4 (PLAINTIFF'S EXHIBIT 4  
22                   MARKED FOR IDENTIFICATION)

23   Q. Do you recognize this document?

24   A. Yes.

25   Q. Do you know if this was the next time that you saw

Christopher Salas, M.D. - July 23, 2019

70

1 and then that information goes on like an SD card,  
2 a memory chip that goes to the manufacturer of the  
3 equipment to get analyzed and interpreted.

4 Q. Do you know how long it typically takes once the  
5 sleep study has been done before results come back  
6 from the outside company?

**7**                   **A.**           **No.**

8 Q. Do you know why it took until September 2nd for  
9 the plaintiff to receive a sleep study?

10 MR. SULLIVAN: Objection.

**11** | **A.**      **No.**

12 Q. Did that time frame seem unusual to you?

13 MR. LATHAM: Objection.

14 A. I have no basis to know that at that point.

15 Q. Well, currently, would it appear surprising in any  
16 way for you -- if you saw that he received a sleep  
17 study on 9-2 when it was ordered on May 31st?

18 MR. LATHAM: Objection. I just want  
19 to be clear, because he hasn't worked in Medium  
20 for a while. You're asking him currently, are you  
21 asking him about Max, or what are you asking him?

22 Q. About Medium, having been at Medium for a year,  
23 would you be surprised now that it took so long  
24 for him to receive the sleep study?

25 MR. LATHAM: Objection.

Christopher Salas, M.D. - July 23, 2019

71

1 A. To be honest, I don't know. I never really  
2 gave it that much thought. So they would -- the  
3 results would come back when they would come back.  
4 Most of the time I wasn't actually looking at the  
5 result from the time frame when I ordered it to  
6 even know how long it was. Like, it wouldn't  
7 normally be natural to even recognize what the  
8 time frame was for the receipt of the result. So  
9 I don't know, to be honest. I just don't think  
10 about it that way.

11 Q. At this visit do you know if you did anything  
12 about the bottom bunk order?

13       A. I wrote that I would also check for the  
14           bottom bunk form, which to me means I would  
15           probably look to see if there was an approved or  
16           denied form in the pile of forms that come back  
17           from them to let me know if they've been approved  
18           or denied, but I didn't write anything else  
19           besides that here.

20 Q. So you wouldn't have checked on the status and  
21 then put anything in the records. Is it normal to  
22 say that you will check and not add anything to  
23 the record?

24 MR. LATHAM: Objection. You can  
25 answer.

Christopher Salas, M.D. - July 23, 2019

72

1 A. Yes.

2 Q. Can you tell from this record if you in fact  
3 followed up or checked on it?

4 A. No.

5 EXHIBIT 5 (PLAINTIFF'S EXHIBIT 5

6 MARKED FOR IDENTIFICATION)

7 Q. What does this document look like?

8 A. So, this would have been the special needs  
9 printout from the same day as that second visit.  
10 And it's the same as the previous visit. So the  
11 special needs haven't changed.

12 Q. The start date on the last order in this document  
13 is 6-28-16; is that correct?

14 A. Yes.

15 Q. And so is it fair to say that you didn't add a new  
16 order on this date, but you did attempt in some  
17 way to print this or get it in some way to the  
18 deputy warden; is that a fair assessment?

19 A. No. I mean, this document wouldn't have gone  
20 to her. The special needs form would have went to  
21 her. I don't know what I did. I don't know what  
22 I did after I wrote the note that day. I don't  
23 know if I just looked for the form in the pile or  
24 I sent another one to her or spoke to her. I just  
25 don't know what happened.

Christopher Salas, M.D. - July 23, 2019

80

1 Q. Do you know what happened with this order after it  
2 was approved?

3 MR. SULLIVAN: Objection.

4 A. I do not.

5 Q. Do you recall ever looking at the sleep study that  
6 was done for this patient?

7 A. At the time, no. I did look at it because it  
8 was in the packet that Jeff had.

9 Q. So you recall looking at it in preparation for  
10 this deposition?

11 A. Last week, yeah.

12 Q. But do you recall looking at it as part of the  
13 plaintiff's treatment?

14 A. No. This is just like hundreds of other --

15 EXHIBIT 7 (PLAINTIFF'S EXHIBIT 7

16 MARKED FOR IDENTIFICATION)

17 Q. So this looks familiar because you recently looked  
18 at it in preparation for this deposition?

19 A. Yes.

20 Q. Did it confirm your suspicion that the plaintiff  
21 had a sleep disorder?

22 A. Yes.

23 Q. Did you do anything in response to this study?

24 A. I don't recall.

25 MS. DAVIS: That's all for that one?